

PATENT  
Attorney Docket No. 101.0089-02000  
Customer No. 22882  
Express Mail Label No. ET692326400US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Gary K. Michelson, M.D. )  
Serial No.: (Cont. 09/941,425) ) Group Art Unit: 3732  
Filed: December 15, 2003 ) Examiner: E. Robert  
For: BONE HEMI-LUMBAR INTERBODY SPINAL )  
FUSION IMPLANT HAVING AN )  
ASYMMETRICAL LEADING END AND )  
METHOD OF INSTALLATION THEREOF )

MS PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed concurrently with the above-referenced application.

Copies of the listed documents were previously submitted in a prior application Serial No. 09/941,425, filed August 28, 2001; and/or Serial No. 09/553,000, filed April 19, 2000, now U.S. Patent No. 6,350,283; upon which applicant relies for the benefits provided in 35 U.S.C. § 120.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

Applicant brings to the Examiner's attention the following U.S. co-pending application of Applicant; the claims and drawings of which are attached hereto:

| <b>NOT FOR PUBLICATION</b> |                    |             |                        |
|----------------------------|--------------------|-------------|------------------------|
| Examiner Initial           | Application Number | Filing Date | Publication/Patent No. |
| <i>JM</i>                  | 09/553,573         | 19APR00     | N/A                    |

Express Mail No.: ET692326400US  
OMB 0651-0031

| Substitut f r FORM PTO-1449                                     |                 |   |   |   |   |   |   | Attorney Docket Number<br>101.0089-02000 | Customer No.<br>22882                       |                         |          |                            |
|---|-----------------|---|---|---|---|---|---|--|---|-------------------------|----------|----------------------------|
| INFORMATION DISCLOSURE CITATION<br>IN AN APPLICATION            |                 |   |   |   |   |   |   | Applicant<br>Gary K. Michelson, M.D.     | Application Number<br>(Cont. of 09/941,425) |                         |          |                            |
| (Use several sheets if necessary)<br>Sheet <u>1</u> of <u>4</u> |                 |   |   |   |   |   |   | Filing Date<br>December 15, 2003         | Group Art Unit<br>(3732)                    | Examiner<br>(E. Robert) |          |                            |
| U.S. PATENT DOCUMENTS   |                 |   |   |   |   |   |   |  |   |                         |          |                            |
| EXAMINER INITIAL  | DOCUMENT NUMBER |   |   |   |   |   |   | DATE                                     | NAME  | CLASS                   | SUBCLASS | FILING DATE IF APPROPRIATE |
| <i>EHR</i>  | 2               | 6 | 7 | 7 | 3 | 6 | 9 | 05/1954                                  | Knowles                                     |                         |          |                            |
|   | 3               | 4 | 2 | 6 | 3 | 6 | 4 | 02/1969                                  | Lumb  |                         |          |                            |
|   | 3               | 8 | 4 | 8 | 6 | 0 | 1 | 11/19/74                                 | Ma et al.                                   |                         |          |                            |
|   | 3               | 8 | 6 | 7 | 7 | 2 | 8 | 02/1975                                  | Stubstad et al.                             |                         |          |                            |
|   | 3               | 8 | 7 | 5 | 5 | 9 | 5 | 04/1975                                  | Froning                                     |                         |          |                            |
|   | 3               | 9 | 0 | 5 | 0 | 4 | 7 | 09/1975                                  | Long  |                         |          |                            |
|   | D               | 2 | 4 | 5 | 2 | 5 | 9 | 08/1977                                  | Shen  |                         |          |                            |
|   | 4               | 0 | 7 | 0 | 5 | 1 | 4 | 01/1978                                  | Eatherly                                    |                         |          |                            |
|   | 4               | 3 | 0 | 9 | 7 | 7 | 7 | 01/1982                                  | Patil                                       |                         |          |                            |
|   | 4               | 3 | 4 | 9 | 9 | 2 | 1 | 09/1982                                  | Kuntz                                       |                         |          |                            |
|   | 4               | 5 | 0 | 1 | 2 | 6 | 9 | 02/1985                                  | Bagby                                       |                         |          |                            |
|   | R               | E | 3 | 1 | 8 | 6 | 5 | 04/1985                                  | Roux  |                         |          |                            |
|   | 4               | 5 | 9 | 9 | 0 | 8 | 6 | 07/1986                                  | Doty  |                         |          |                            |
|   | 4               | 6 | 3 | 6 | 2 | 1 | 7 | 01/1987                                  | Ogilvie et al.                              |                         |          |                            |
|   | 4               | 7 | 1 | 4 | 4 | 6 | 9 | 12/1987                                  | Kenna                                       |                         |          |                            |
|   | 4               | 7 | 4 | 3 | 2 | 5 | 6 | 05/1988                                  | Brantigan                                   |                         |          |                            |
|   | 4               | 7 | 5 | 9 | 7 | 6 | 6 | 07/1988                                  | Buettner-Janz et al.                        |                         |          |                            |
|   | 4               | 7 | 5 | 9 | 7 | 6 | 9 | 07/1988                                  | Hedman et al.                               |                         |          |                            |
|   | 4               | 8 | 2 | 0 | 3 | 0 | 5 | 04/1989                                  | Harms et al.                                |                         |          |                            |
|   | 4               | 8 | 3 | 4 | 7 | 5 | 7 | 05/1989                                  | Brantigan                                   |                         |          |                            |
|   | 4               | 8 | 6 | 3 | 4 | 7 | 6 | 09/1989                                  | Shepperd                                    |                         |          |                            |
|   | 4               | 8 | 6 | 3 | 4 | 7 | 7 | 09/1989                                  | Monson                                      |                         |          |                            |
|   | 4               | 8 | 7 | 7 | 0 | 2 | 0 | 10/1989                                  | Vich  |                         |          |                            |
|   | 4               | 8 | 7 | 8 | 9 | 1 | 5 | 11/1989                                  | Brantigan                                   |                         |          |                            |
|   | 4               | 9 | 0 | 4 | 2 | 6 | 1 | 02/1990                                  | Dove et al.                                 |                         |          |                            |
|   | 4               | 9 | 1 | 1 | 7 | 1 | 8 | 03/1990                                  | Lee et al.                                  |                         |          |                            |
|   | 4               | 9 | 3 | 6 | 8 | 4 | 8 | 06/1990                                  | Bagby                                       |                         |          |                            |

*Edwin R. G.* 2/5/05

|  |   |   |   |   |   |   |   |         |                 |  |  |  |
|--|---|---|---|---|---|---|---|---------|-----------------|--|--|--|
|  | 4 | 9 | 5 | 5 | 9 | 0 | 8 | 09/1990 | Frey et al.     |  |  |  |
|  | 4 | 9 | 6 | 1 | 7 | 4 | 0 | 10/1990 | Ray et al.      |  |  |  |
|  | 5 | 0 | 1 | 5 | 2 | 4 | 7 | 05/1991 | Michelson       |  |  |  |
|  | 5 | 0 | 1 | 5 | 2 | 5 | 5 | 05/1991 | Kuslich         |  |  |  |
|  | 5 | 0 | 2 | 6 | 3 | 7 | 3 | 06/1991 | Ray et al.      |  |  |  |
|  | 5 | 0 | 4 | 7 | 0 | 5 | 5 | 09/1991 | Bao             |  |  |  |
|  | 5 | 0 | 5 | 5 | 1 | 0 | 4 | 10/1991 | Ray             |  |  |  |
|  | 5 | 0 | 5 | 9 | 1 | 9 | 3 | 10/1991 | Kuslich         |  |  |  |
|  | 5 | 0 | 6 | 2 | 8 | 4 | 5 | 11/1991 | Kuslich et al.  |  |  |  |
|  | 5 | 0 | 7 | 1 | 4 | 3 | 7 | 12/1991 | Steffee         |  |  |  |
|  | 5 | 1 | 2 | 2 | 1 | 3 | 0 | 06/1992 | Keller          |  |  |  |
|  | 5 | 1 | 2 | 3 | 9 | 2 | 6 | 06/1992 | Pisharodi       |  |  |  |
|  | 5 | 1 | 7 | 1 | 2 | 7 | 8 | 12/1992 | Pisharodi       |  |  |  |
|  | 5 | 1 | 9 | 2 | 3 | 2 | 7 | 03/1993 | Brantigan       |  |  |  |
|  | 5 | 2 | 4 | 6 | 4 | 5 | 8 | 09/1993 | Graham          |  |  |  |
|  | 5 | 2 | 5 | 8 | 0 | 3 | 1 | 11/1993 | Salib et al.    |  |  |  |
|  | 5 | 3 | 0 | 6 | 3 | 0 | 9 | 04/1994 | Wagner et al.   |  |  |  |
|  | 5 | 3 | 7 | 0 | 6 | 9 | 7 | 12/1994 | Baumgartner     |  |  |  |
|  | 5 | 3 | 9 | 7 | 3 | 6 | 4 | 03/1995 | Kozak et al.    |  |  |  |
|  | 5 | 4 | 2 | 5 | 7 | 7 | 2 | 06/1995 | Brantigan       |  |  |  |
|  | 5 | 4 | 4 | 3 | 5 | 1 | 4 | 08/1995 | Steffee         |  |  |  |
|  | 5 | 4 | 5 | 8 | 6 | 3 | 8 | 10/1995 | Kuslich et al.  |  |  |  |
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|  | 5 | 5 | 7 | 1 | 1 | 0 | 9 | 11/1996 | Bertagnoli      |  |  |  |
|  | 5 | 6 | 0 | 9 | 6 | 3 | 5 | 03/1997 | Michelson       |  |  |  |
|  | 5 | 6 | 0 | 9 | 6 | 3 | 6 | 03/1997 | Kohrs et al.    |  |  |  |
|  | 5 | 6 | 4 | 5 | 5 | 9 | 8 | 07/1997 | Brosnahan, III  |  |  |  |
|  | 5 | 6 | 5 | 8 | 3 | 3 | 7 | 08/1997 | Kohrs et al.    |  |  |  |
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|  | 5 | 6 | 6 | 9 | 9 | 0 | 9 | 09/1997 | Zdeblick et al. |  |  |  |
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|  | 5 | 7 | 8 | 2 | 9 | 1 | 9 | 07/1998 | Zdeblick et al. |  |  |  |
|  | D | 3 | 9 | 7 | 4 | 3 | 9 | 08/1998 | Koros et al.    |  |  |  |
|  | 5 | 8 | 0 | 0 | 5 | 4 | 7 | 09/1998 | Schäfer et al.  |  |  |  |
|  | 5 | 8 | 0 | 0 | 5 | 5 | 0 | 09/1998 | Sertich         |  |  |  |

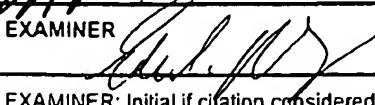
Edward P. B. 2/5/05

|  |   |   |   |   |   |   |   |         |                |  |  |  |
|--|---|---|---|---|---|---|---|---------|----------------|--|--|--|
|  | 5 | 8 | 1 | 4 | 0 | 8 | 4 | 09/1998 | Grivas et al.  |  |  |  |
|  | 5 | 8 | 6 | 1 | 0 | 4 | 1 | 01/1999 | Tienboon       |  |  |  |
|  | 6 | 0 | 3 | 3 | 4 | 3 | 8 | 03/2000 | Bianchi et al. |  |  |  |
|  | 6 | 1 | 4 | 3 | 0 | 3 | 2 | 11/2000 | Schafer        |  |  |  |
|  | 6 | 1 | 7 | 9 | 8 | 7 | 5 | 01/2001 | Von Stempel    |  |  |  |
|  | 6 | 2 | 4 | 5 | 1 | 0 | 8 | 06/2001 | Biscup         |  |  |  |
|  | 6 | 2 | 4 | 1 | 7 | 7 | 1 | 06/2001 | Gresser        |  |  |  |
|  | 6 | 2 | 4 | 1 | 7 | 7 | 0 | 06/2001 | Michelson      |  |  |  |
|  | 6 | 3 | 5 | 0 | 2 | 8 | 3 | 02/2002 | Michelson      |  |  |  |

#### FOREIGN PATENT DOCUMENTS

|  | DOCUMENT NUMBER |   |   |   |   |   |   | DATE     | COUNTRY | CLASS | SUBCLASS | TRANSLATION<br>(YES/NO)           |
|--|-----------------|---|---|---|---|---|---|----------|---------|-------|----------|-----------------------------------|
|  | 57              | - | 2 | 9 | 3 | 4 | 8 | 02/17/82 | Japan   | —     | —        | U.S. Equivalent<br>U.S. 4,349,921 |
|  | 0               | 0 | 7 | 7 | 1 | 5 | 9 | 04/20/83 | Europe  | —     | —        |                                   |
|  |                 | 2 | 8 | 3 | 0 | 7 | 8 | 05/01/85 | Spain   | —     | —        | U.S. Equivalent<br>U.S. 4,877,020 |
|  | 0               | 1 | 7 | 9 | 6 | 9 | 5 | 04/30/86 | Europe  | —     | —        | Yes                               |
|  | 3               | 5 | 0 | 5 | 5 | 6 | 7 | 05/06/86 | Germany | —     | —        | Abstract Only                     |
|  | 61              | 1 | 2 | 2 | 8 | 5 | 9 | 06/10/86 | Japan   | —     | —        | U.S. Equivalent<br>U.S. 4,759,766 |
|  | 62              | 1 | 5 | 5 | 8 | 4 | 6 | 07/10/87 | Japan   | —     | —        | Yes                               |
|  | 0               | 2 | 6 | 0 | 0 | 4 | 4 | 03/16/88 | Europe  | —     | —        |                                   |
|  | 0               | 3 | 0 | 7 | 2 | 4 | 1 | 03/15/89 | Europe  | —     | —        |                                   |
|  | 9               | 2 | 1 | 4 | 4 | 2 | 3 | 09/03/92 | WIPO    | —     | —        |                                   |
|  | 9               | 3 | 0 | 1 | 7 | 7 | 1 | 02/04/93 | WIPO    | —     | —        |                                   |
|  | 0               | 5 | 7 | 7 | 1 | 7 | 9 | 01/05/94 | Europe  | —     | —        |                                   |
|  | 0               | 5 | 9 | 9 | 4 | 1 | 9 | 06/01/94 | Europe  | —     | —        |                                   |
|  | 2               | 7 | 0 | 3 | 5 | 8 | 0 | 10/14/94 | France  | —     | —        | Abstract Only                     |
|  | 2               | 7 | 2 | 4 | 3 | 1 | 2 | 03/1993  | France  | —     | —        |                                   |
|  | 0               | 6 | 2 | 7 | 2 | 0 | 4 | 12/07/94 | Europe  | —     | —        | Abstract Only                     |
|  | 9               | 5 | 0 | 8 | 9 | 6 | 4 | 04/06/95 | WIPO    | —     | —        |                                   |
|  | 9               | 6 | 2 | 2 | 7 | 4 | 7 | 08/01/96 | WIPO    | —     | —        |                                   |
|  | 0               | 6 | 3 | 7 | 4 | 4 | 0 | 10/15/97 | Europe  | —     | —        | U.S. Equivalent<br>U.S. 5,683,463 |

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|   | Lumbar Spine Surgery, Techniques & Complications; History of Lumbar Spine Surgery (1994) pp. 11-15; 27; 30; 35-45; 265-268   |
|   | European Opposition Document, Nov. 27, 1995 – Opposing EP Patent No. 425 542 B1 to Karlin Technology, Inc.   |
|   | Laparoscopic Bone Dowel Surgical Technique; Brochure of Sofamor Danek (1995)   |
|   | Laparoscopic Bone Dowel Instruments; Brochure of Sofamor Danek (1995)  |
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|   | A picture of a Medtronic, Sofamor Danek Display; titled "Evolving With Your Needs" (4/6/00)  |
| EXAMINER<br> | DATE CONSIDERED<br>2/5/05  |

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.